

Clearinghouse Rule 95-227

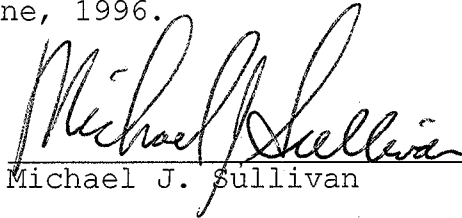
STATE OF WISCONSIN)
) SS
DEPARTMENT OF CORRECTIONS)

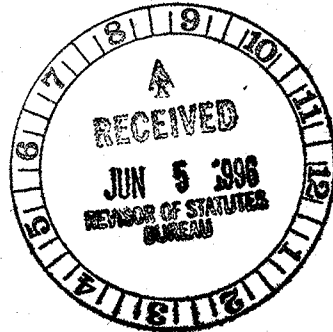
I, Michael J. Sullivan, Secretary, Department of Corrections and custodian of the official records, certify that the annexed rules, relating to supervision fees for probationers and parolees, were duly approved and adopted by this Department on June 5, 1996.

I further certify that this copy has been compared by me with the original on file in this Department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Corrections 149 E. Wilson Street in the city of Madison, this 5th day of June, 1996.

SEAL


Michael J. Sullivan



8-1-96
95-227



ORDER OF THE
DEPARTMENT OF CORRECTIONS
RENUMBERING, AMENDING AND CREATING RULES

The Wisconsin department of corrections adopts an order to renumber DOC 328.03 (2), 328.03 (3), 328.03 (4), 328.03 (15), 328.03 (17), 328.03 (18), 328.03 (19), 328.03 (22), 328.03 (23), 328.03 (24), 328.03 (25), 328.03 (26), 328.03 (27), 328.03 (28), 328.03 (29), 328.03 (30), 328.03 (31), 328.03 (32), 328.03 (33) and 328.03 (34); to amend DOC 328.05 (1) (d) and 328.05 (11); and to create DOC 328.03 (2), 328.03 (19), 328.03 (22), 328.03 (23), 328.03 (24), 328.04 (3) (n), 328.043, 328.044, 328.045, 328.046, 328.047, 328.048, 328.049 and 328.495.

Statutory authority: ss. 301.08 (1) (c) 2., 304.073 (3), 304.074 (5) and 227.11 (2) (a), Stats.

Statutes interpreted: ss. 301.08 (1) (c) 2., 304.073 (2) and 304.074 (2), Stats.

ANALYSIS PREPARED BY THE DEPARTMENT OF CORRECTIONS

This rule order regulates the setting and collecting of supervision fees, as required, under ss. 301.08 (1) (c) 2., 304.073 (3) and 304.074 (5), Stats., created by 1995 Wisconsin Act 27.

Beginning January 1, 1996, by an emergency rule making order, the Department began charging offenders on probation or parole supervision fees. This rule order is the permanent rules. Offenders under administrative or minimum supervision and supervised by the Department will pay a fee sufficient to cover the cost of supervision. Offenders under administrative or minimum supervision and supervised by a vendor will pay a fee sufficient to cover the cost of supervision and administration of the vendor contract. Offenders under medium, maximum, or high risk supervision will pay a supervision fee based on the ability to pay.

This rule order creates an exemption for an offender who is under medium, maximum, or high risk supervision and who meets certain conditions. The conditions for obtaining an exemption are unemployment, the pursuit of a full-time course of instruction, undergoing treatment, a statement from a physician that excuses an offender from work for a medical reason and the offender is unable to be employed because of the medical reason. Nonetheless, if the offender who meets one or more of the exemption criteria but has the ability to pay will not receive an exemption. There are no exemptions for clients under administrative or minimum supervision.

This rule order creates an exception for an offender who is supervised by another state under an interstate compact from paying a Wisconsin supervision fee. An offender who is serving a concurrent sentence of prison and probation or parole is not required to pay the supervision fee while in prison.

In an attempt to improve efficiency and effectiveness, the Department is improving procedures to supervise low risk offenders under administrative and minimum supervision. The Department has determined that certain offenders may be adequately controlled through the use of a vendor phone-in report system and with supervisory oversight by the Department. The Department considers monitoring to be a subset of supervision and, as such, the Department may contract with a vendor for this service under s. 304.073, Stats. These rules authorize the department to contract with a vendor to provide monitoring of an offender. Offenders who are on monitoring are required to pay a fee sufficient to cover the cost of monitoring, supervision by the department and cost of administering the contract.

This rule order requires the Department to establish the rate for supervision and monitoring fees and to provide the offender with the supervision fee schedule.

This rule order requires offenders to comply with the procedures of the Department or vendor for payment of the supervision or monitoring fee. These rules require the Department to provide the offender with a copy of the procedures for paying the supervision or monitoring fee. These rules permit an offender to pay the supervision fee in monthly installments or in a lump sum.

This rule order permits the department to take certain action for the offender's failure to pay the supervision or monitoring fee. The actions include counseling, wage assignments, review of supervision level, recommendation for revocation of probation or parole and any other appropriate means of obtaining the supervision or monitoring fee.

SECTION 1. DOC 328.03 (2) is renumbered DOC 328.03 (3).

SECTION 2. DOC 328.03 (2) is created to read:

DOC 328.03 (2) "Administrative supervision" means the supervision of a probationer or parolee in which the department requires that a minimum of one face-to-face contact occur every 6 months between the probationer or parolee and a representative of the department and that the probationer or parolee submit a monthly report to the department.

SECTION 3. DOC 328.03 (3) is renumbered DOC 328.03 (4).

SECTION 4. DOC 328.03 (4) is renumbered DOC 328.03 (15).

SECTION 5. DOC 328.03 (15) is renumbered DOC 328.03 (14).

SECTION 6. DOC 328.03 (17) is renumbered DOC 328.03 (16).

SECTION 7. DOC 328.03 (18) is renumbered DOC 328.03 (17).

SECTION 8. DOC 328.03 (19) is renumbered DOC 328.03 (18).

SECTION 9. DOC 328.03 (19) is created to read:

DOC 328.03 (19) "High risk supervision" means the type of supervision necessary for an offender who presents risks that carry potential violence to a victim where plans are developed to reduce or eliminate this risk and plans are implemented within a set of guidelines while retaining flexibility and staff judgment.

SECTION 10. DOC 328.03 (22) is renumbered DOC 328.03 (25).

SECTION 11. DOC 328.03 (22) is created to read:

DOC 328.03 (22) "Minimum supervision" means the supervision of a probationer or parolee in which the department requires that minimum of one face-to-face contact occur every 90 days between the probationer or parolee and a representative of the department and that the probationer or parolee submit a monthly report to the department.

SECTION 12. DOC 328.03 (23) is renumbered DOC 328.03 (26).

SECTION 13. DOC 328.03 (23) is created to read:

DOC 328.03 (23) "Monitoring" means the phone-in report system used by certain low-risk administrative supervision or minimum supervision offenders for the required contact between an offender

and a representative of the department determined by rules or conditions of supervision.

SECTION 14. DOC 328.03 (24) is renumbered DOC 328.03 (27).

SECTION 15. DOC 328.03 (24) is created to read:

DOC 328.03 (24) "Offender" means a probationer or parolee.

SECTION 16. DOC 328.03 (25) is renumbered DOC 328.03 (28).

SECTION 17. DOC 328.03 (26) is renumbered DOC 328.03 (29).

SECTION 18. DOC 328.03 (27) is renumbered DOC 328.03 (30).

SECTION 19. DOC 328.03 (28) is renumbered DOC 328.03 (31).

SECTION 20. DOC 328.03 (29) is renumbered DOC 328.03 (32).

SECTION 21. DOC 328.03 (30) is renumbered DOC 328.03 (33).

SECTION 22. DOC 328.03 (31) is renumbered DOC 328.03 (34).

SECTION 23. DOC 328.03 (32) is renumbered DOC 328.03 (35).

SECTION 24. DOC 328.03 (33) is renumbered DOC 328.03 (36).

SECTION 25. DOC 328.03 (34) is renumbered DOC 328.03 (37).

SECTION 26. DOC 328.04 (3) (n) is created to read:

DOC 328.04 (3) (n) Pay supervision or monitoring fee under ss. DOC 328.043 (2), 328.044 (2), 328.045 (2) or 328.046 (2) and comply with the department's or vendor's procedures as may be required.

SECTION 27. DOC 328.043 is created to read:

DOC 328.043 ADMINISTRATIVE AND MINIMUM SUPERVISION OFFENDER SUPERVISED BY THE DEPARTMENT. (1) OFFENDER PAYMENT. An offender who is under administrative or minimum supervision and who is supervised by the department shall pay a supervision fee.

(2) SUPERVISION FEE. The department shall set a supervision fee for an offender that is sufficient to cover the cost of the offender's supervision and shall do all of the following:

(a) Determine the monthly cost of supervision of the offender.

(b) Determine the supervision fee for the number of months on supervision.

(c) Charge a supervision fee in the range of \$20.00 to \$30.00. The supervision fee charged may not exceed the maximum rate specified in category I under s. DOC 328.045 (2) (c).

(d) Provide for an increase in the supervision fee if the cost of supervision increases.

(e) Establish a priority system for payment of fees or costs owed by the offender.

(f) Provide the offender with a copy of the fee schedule.

(3) REPORTING AND VERIFICATION OF SUPERVISION FEE. With reference to the supervision fee under sub. (2):

(a) The department shall do all of the following:

1. Record all supervision fees paid by the offender.
2. Provide the offender access to a copy of the record of payments to verify receipt of payment.
3. Advise the offender of nonpayment of supervision fees.
4. Audit the record of payment of supervision fee.

(b) The offender shall do all of the following:

1. Maintain a record of payments.
2. Provide documentation of the offender's payment record to the agent for purposes of comparing the offender's payment records to the records of the department.

SECTION 28. DOC 328.044 is created to read:

DOC 328.044 ADMINISTRATIVE AND MINIMUM SUPERVISION OFFENDER SUPERVISED BY A VENDOR. (1) OFFENDER PAYMENT. An offender who is under administrative or minimum supervision and who is supervised by a vendor shall pay a supervision fee.

(2) SUPERVISION FEE. The department shall set a supervision fee for an offender that is sufficient to cover the cost of the offender's supervision and the administration of the vendor contract and shall do all of the following:

(a) Determine the monthly cost of supervision and fee for administration of the vendor contract.

(b) Determine the supervision fee and fee for administration for the number of months on supervision.

(c) Charge a supervision fee in the range of \$20.00 to \$30.00.

(d) Provide for an increase in the supervision fee and fee for administration of the contract if the cost of supervision or the cost of administering the vendor contract increases.

(e) Establish a priority system for payment of fees or costs owed by the offender.

(f) Provide the offender with a copy of the fee schedule.

(3) REPORTING AND VERIFICATION OF SUPERVISION FEE. With reference to the supervision fee under sub. (2):

(a) The vendor shall do all of the following:

1. Record all supervision fees paid by the offender.
2. Provide the offender access to a copy of the record of payments to verify receipt of payments.
3. Provide the offender's agent a report of payment of the supervision fee paid by the offender by the 15th of the month following the month in which the payment is due.
4. At any time the department deems necessary, permit the department to audit the vendor's records related to payment of supervision fees by offenders under this section.

(b) The offender shall do all of the following:

1. Maintain a record of payments.
2. Report any problems with the vendor's record of payments to the vendor according to the vendor's procedures.
3. Provide documentation of the offender's payment record to the agent for purposes of comparing the offender's payment records to the records of the vendor.

SECTION 29. DOC 328.045 is created to read:

DOC 328.045 MEDIUM, MAXIMUM AND HIGH RISK SUPERVISION BY THE DEPARTMENT. (1) OFFENDER PAYMENT. An offender on medium supervision as defined under s. DOC 328.04 (4) (b) or maximum supervision as defined under s. DOC 328.04 (4) (a) or high risk supervision shall pay a supervision fee.

(2) SUPERVISION FEE. The department shall set a supervision fee for an offender based on the offender's ability to pay with the goal of receiving at least \$1 per day, if appropriate, and shall do all of the following:

(a) Determine the offender's gross monthly income and ability to pay the supervision.

(b) Determine the supervision fee for the number of months on supervision.

(c) Charge a supervision fee according to the following table:

Table DOC 328.045

<u>Category</u>	<u>Gross Monthly Income</u>	<u>Supervision Fee</u>	<u>Maximum Rate</u>
I	\$0-599.99	\$10.00	\$30.00
II	\$600.00 or more	\$30.00	\$45.00

(d) Provide for an increase in the supervision fee if the cost of supervision increases or if there is a change in the offender's ability to pay. The department shall assess the fee level to be charged to offenders at least annually. In setting the fee for each fee category, the department shall consider the following factors:

1. Inflation.
2. Ability of offenders to pay an increased fee.
3. Increased cost related to supervision and services.
4. Major program changes and costs.
5. Level of collections from offenders.

(e) If sub. (3) is applicable, exempt the offender from paying the supervision fee.

(f) Establish a priority system for payment of fees or costs owed by the offender.

(g) Provide the offender with a copy of the fee schedule.

(3) SUPERVISION FEE EXEMPTIONS. (a) Except under par. (b), an offender who meets one or more of the following conditions may not be required to pay the supervision fee:

1. Has used all reasonable and appropriate means to obtain employment as determined by the offender's probation or parole agent, but has been unable to obtain employment which provides the offender sufficient income to pay supervision fees.

2. Is a student enrolled in a full-time course of instruction. For the purpose of this subdivision, a "full-time course of instruction" means enrolled in an accredited course of instruction and registered for more than 9 credits in post secondary education or full-time high school or full-time junior high school. For the purpose of this subdivision, "school" means a public school under s. 115.01 (1), Stats., a charter school as defined in s. 115.001 (1), Stats., or a private school as defined in s. 115.001 (3r), Stats. The offender shall provide a release of information to verify enrollment and registration of credits. If the offender fails to provide the release of information, no exemption may given. The educational institution shall certify to the department that the offender is enrolled and attending a full-time course work at the educational institution.

3. Is undergoing psychological, chemical or medical treatment consistent with the supervision plan approved by the department and is unable to be employed. The treatment provider shall certify the offender's status to the department.

4. Has a statement from a licensed physician excusing the offender from work for medical reason and the offender is unable to be employed because of the medical reason. The physician shall certify the offender's status to the department.

(b) An offender who meets one or more of the exemption criteria but who the department determines has the ability to pay shall not receive an exemption.

(c) The agent shall make a determination concerning an offender's exemption from the supervision fee within 10 working days of receiving an offender for control and supervision or within 10 working days of a reported change in the offender's financial status.

(d) The agent's supervisor shall review all decisions made by the offender's probation or parole agent to exempt an offender from the payment of the supervision fee.

(4) REPORTING AND VERIFICATION OF SUPERVISION FEE. With reference to the supervision fee under sub. (2):

(a) The department shall do all of the following:

1. Record all supervision fees paid by an offender.

2. Provide the offender access to a copy of the record of payments to verify receipt of payments.

3. Advise the offender of nonpayment of supervision fees.

4. Audit the record of payment of supervision fee.

(b) The offender shall do all of the following:

1. Maintain a record of payments.

2. Provide documentation of the offender's payment record to the agent for purposes of comparing the offender's payment records to the records of the department.

SECTION 30. DOC 328.046 is created to read:

DOC 328.046 VENDOR MONITORING. (1) MONITORING OF AN OFFENDER BY A VENDOR. Pursuant to s. 304.073, Stats, the department may contract with a vendor to provide full or part supervision services including monitoring of an offender. When an offender is monitored by a vendor, face-to-face contact between the offender and the vendor is not required.

(2) MONITORING FEE. The department shall set a monitoring fee for an offender that is sufficient to cover the cost of the offender's monitoring, supervision by the department and cost of administering the contract and shall do all of the following:

(a) Determine the monthly cost of monitoring of the offender.

(b) Determine the monitoring fee for the number of months on monitoring.

(c) Charge a monitoring fee in the range of \$20.00 to \$30.00. The monitoring fee may not exceed the maximum rate specified in category I under s. DOC 328.045 (2) (c). The department may enter into an agreement which permits the vendor not to charge a portion of the monitoring fee to the department's indigent population under administrative supervision or minimum supervision.

(d) Provide for an increase in the monitoring fee if the cost of monitoring increases.

(e) Establish a priority system for payment of fees or costs owed by the offender.

(f) Provide the offender with a copy of the fee schedule.

(3) REPORTING AND VERIFICATION OF MONITORING FEE. With reference to the monitoring fee under sub. (2):

(a) The vendor shall do all of the following:

1. Record all monitoring fees paid by the offender.
2. Provide the offender access to a copy of the record of payments to verify receipt of payments.
3. Provide the offender's agent a report of payment of monitoring fee paid by the 15th of the month following the month in which the payment is due.
4. At any time the department deems necessary, permit the department to audit the vendor's records related to payment of monitoring fee by offenders under this section.

(b) The offender shall do all of the following:

1. Maintain a record of payments.
2. Report any problems with the vendor's record of payments to the vendor according to the vendor's procedures.
3. Provide documentation of the offender's payment record to the agent for purposes of comparing the offender's payment records to the records of the department.

SECTION 31. DOC 328.047 is created to read:

DOC 328.047 COLLECTION OF SUPERVISION FEE OR MONITORING FEE. In collecting the supervision or monitoring fee under ss. DOC 328.043 (2), 328.044 (2), 328.045 (2) and 328.046 (2), all of the following shall occur:

(1) The department shall do all of the following:

(a) Establish a supervision fee schedule including all of the following:

1. A grace period for the initial month of supervision.
2. A deadline for payment for each subsequent month of supervision.
3. That the deadline for the final payment is 30 days before the offender's discharge from supervision or monitoring.

(b) Approve procedures for the collection of supervision or monitoring fees and include in the contract with a vendor.

(c) Provide the offender with a copy of the supervision fee payment procedures.

(d) The agent may take action under s. DOC 328.048, if an offender fails to pay a supervision or monitoring fee.

(e) Credit those moneys to the appropriation account under ss. 20.410 (1) (ge) or 20.410 (1) (gf), Stats.

(2) The offender shall do all of the following:

(a) Pay the appropriate supervision fee to the department according to the procedures established by the department.

(b) If supervised by the department, pay the supervision fee in one of the following ways:

1. In monthly installments.

2. In a lump sum payment at the beginning of supervision.

3. In a lump sum payment for any remaining months of supervision.

(c) If supervised or monitored by a vendor, pay the appropriate supervision or monitoring fee according to procedures approved under sub. (3) (b).

(3) The vendor shall do all of the following:

(a) Implement procedures for the collection or monitoring fees approved under sub. (1) (b).

(b) Reimburse the department for its allotment of the supervision fee according to the contract.

SECTION 32. DOC 328.048 is created to read:

DOC 328.048 DEPARTMENT ACTION WHEN AN OFFENDER FAILS TO PAY SUPERVISION OR MONITORING FEE. The department may use any of the following actions in any order when an offender fails to pay the supervision or monitoring fee:

(1) Counseling.

(2) Wage assignment.

(3) Review of supervision level to determine if more restrictive sanctions are needed, including an increase in the level of supervision, electronic monitoring or detention in a jail, correctional facility or house of corrections.

(4) Issue a recommendation for revocation of parole or probation for the offender's willful failure to pay the supervision or monitoring fee after the agent has taken action under sub. (1) and has determined that the offender has the ability to pay the supervision or monitoring fee.

(5) Any other appropriate means of obtaining the supervision fee.

SECTION 33. DOC 328.049 is created to read:

DOC 328.049 EXCEPTIONS. The following offenders are not required to pay a supervision fee:

(1) A probationer or parolee who is supervised by another state under an interstate compact adopted pursuant to s. 302.25, Stats.

(2) An offender who is serving a sentence in prison and has a concurrent probation or parole case.

SECTION 34. DOC 328.0495 is created to read:

DOC 328.0495 REFUND OF SUPERVISION OR MONITORING FEE WHEN OFFENDER HAS PAID IN ADVANCE. (1) The department may not make any refund to an offender for a partial month of supervision or monitoring.

(2) On the request of an offender, the department shall refund any supervision or monitoring fee for any month paid in advance when no supervision occurred during the month.

(3) An offender supervised or monitored by a vendor shall obtain a refund for payment of any supervision or monitoring fee according to the vendor's procedures as determined by contract.

SECTION 35. DOC 328.05 (1) (d) is amended to read:

DOC 328.05 (1) (d) The agent believes that management is necessary to ensure compliance with the ~~client's~~ offender's existing financial obligations, including paying the supervision or monitoring fee under ss. DOC 328.043 (2), 328.044 (2), 328.045 (2) or 328.046 (2).

SECTION 36. DOC 328.05 (11) is amended to read:

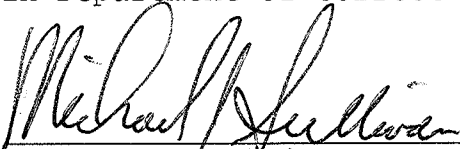
DOC 328.05 (11) An agent may seek a wage assignment against a client an offender if it is necessary to assure timely collection of restitution and court costs and, to control the client's offender's earnings and to collect the supervision fee under ss. DOC 328.043 (2), 328.044 (2), 328.045 (2) or 328.046 (2).

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Wisconsin Department of Corrections

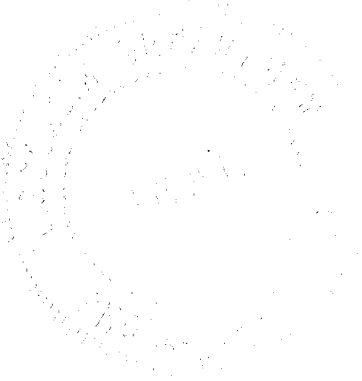
Dated: June 5, 1996

By:



Michael J. Sullivan
Secretary

Seal:



Tommy G. Thompson
Governor

Michael J. Sullivan
Secretary



Mailing Address
149 East Wilson Street
Post Office Box 7925
Madison, WI 53707-7925
Telephone (608) 266-2471

State of Wisconsin Department of Corrections

June 5, 1996


Mr. Bruce E. Munson, Revisor
Revisor of Statutes Bureau
Suite 800
131 West Wilson Street
Madison, WI 53703-3233



Dear Mr. Munson:

As provided in s. 227.20, Stats., the Department of Corrections submits a certified copy and an uncertified copy of the DOC 328 relating to supervision fees for probationers and parolees.

Sincerely,


Michael J. Sullivan
Secretary

Enclosure